

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DENNIS ANTHONY HALL,

Petitioner,

Civil No. 2:10-CV-11252

HONORABLE DENISE PAGE HOOD

v.

CHIEF UNITED STATES DISTRICT JUDGE

STEVEN RIVARD,

Respondent,

**OPINION AND ORDER DENYING
MOTION FOR A CERTIFICATE OF APPEALABILITY [Dkt. # 34]**

On March 31, 2016, this Court denied the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, declined to issue a certificate of appealability, but granted petitioner leave to appeal *in forma pauperis*. *Hall v. Rivard*, No. 2:10-CV-11252, 2016 WL 1258990 (E.D. Mich. Mar. 31, 2016). On April 25, 2016, petitioner filed a notice of appeal. [Dkt. # 31].¹ Petitioner has now filed a motion for a certificate of appealability.

This Court already denied petitioner a certificate of appealability. [Dkt. #26 and 33] The proper procedure when a district court denies a certificate of appealability is for the petitioner to file a motion for a certificate

¹ Under the “prison mailbox rule,” petitioner’s notice of appeal was filed on April 25, 2016, the date that it was signed and dated by petitioner. *Houston v. Lack*, 487 U.S. 266, 270-71 (1988).

of appealability before the appellate court in the appeal from the judgment denying the petition for writ of habeas corpus or the motion to vacate sentence. See *Sims v. U.S.*, 244 F. 3d 509 (6th Cir. 2001)(citing Fed. R.App. P. 22(b)(1)).

Accordingly,

IT IS ORDERED that the Motion for Certificate of Appealability (**Doc. No. 34**) is DENIED. Petitioner may refile the motion with the United States Court of Appeals for the Sixth Circuit.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: May 24, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 24, 2016, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager